

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

SUNGJIN INC CO., LTD.,

Plaintiff,

-against-

KENNETH HOROWITZ, d/b/a BAG STUDIO, LLC;
LE SPORTSAC, INC.; ITOCHU INTERNATIONAL
INC.; ITOCHU LOGISTICS (USA) CORP.

Defendants.

ORDER

19 Civ. 9496 (GBD) (GWG)

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GEORGE B. DANIELS, United States District Judge:

For the reasons stated on the record during today's oral argument, Defendants' Motion to Dismiss Plaintiff's Second Amended Complaint, ECF No. 45, pursuant to Federal Rule of Civil Procedure 12(b)(7) for failure to join a party under Rule 19 is DENIED. Defendants' Motion to Dismiss pursuant to Rule 12(b)(6) for failure to state a claim is GRANTED to the extent that Defendant Itochu Logistics (USA) Corp. is voluntarily dismissed by Plaintiff with prejudice.

Plaintiff may seek leave to file an amended complaint by letter application, attaching a proposed amended complaint within thirty (30) days of this Order.


Defendants shall file any opposition to Plaintiff's letter application within thirty (30) days after service of Plaintiff's letter application.

Plaintiff may serve any reply within ten (10) days thereafter.

The Clerk of Court is directed to close the motion at ECF No. 63 accordingly.

Dated: New York, New York
September 23, 2020

SO ORDERED.



GEORGE B. DANIELS
United States District Judge